



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Docket No. TSCA-SP-2013-002

NOV 08 2012

Robert A. Niblock
CEO
Lowe's Companies, Inc. and
Lowe's Homes Centers, Inc
1000 Lowe's Blvd.
 Mooresville, NC 28117

RE: SUBPOENA under Section 11(c) of TSCA, 15 U.S.C. § 2610(c)

Dear Mr. Niblock:

The Environmental Protection Agency ("EPA"), Region 1, is issuing this Subpoena to You to determine compliance with regulations establishing standards for renovation activities that may create lead-based paint hazards in residential properties and child-occupied facilities built before 1978. Pursuant to the Lead Renovation, Repair, and Painting Rule ("Lead RRP Rule" or "Rule"), codified at 40 C.F.R. Part 745, Subpart E, individuals or firms performing renovation, repair, and/or painting projects for compensation that disturb painted surfaces in pre-1978 residential homes ("target housing") and child-occupied facilities (including schools) must be certified by EPA and must use certified renovators who are trained by EPA-approved training providers to follow lead-safe work practices. The Lead RRP Rule mandates that certified renovators follow procedures that implement the three basic requirements of the work practice standards: (1) containing the work area; (2) minimizing the dust; and (3) cleaning up thoroughly. Renovators must also comply with regulations found at 40 C.F.R. § 745.84 regarding distribution of lead hazard information to people who may be affected by the renovation, repair or painting projects. Record-keeping requirements, found at 40 C.F.R. § 745.86, obligate renovators to maintain documents proving compliance with the Lead RRP Rule for three years. A violation of the regulations is a prohibited act under Section 409 of TSCA, 15 U.S.C. § 2689, which can result in civil penalties of up to \$37,500 per violation per day.

This Subpoena is issued to You under the authority of Section 11(c) of TSCA, 15 U.S.C. § 2610(c). In carrying out its duties under TSCA, EPA may require by subpoena the attendance and testimony of witnesses, the production of reports, papers and documents, answers to questions, and other information EPA deems necessary. **Your failure or refusal to fully and truthfully submit the information required by this Subpoena may subject You to further**

action to enforce this Subpoena in Federal court. In addition, the failure or refusal to submit the information required in this Subpoena may subject You to civil and/or criminal penalties pursuant to Section 16 of TSCA, 15 U.S.C. § 2615. The issuance of this document does not preclude the issuance of further subpoenas relating to this matter to You or other parties.

For Your convenience, we are also enclosing a package of information to assist in Your compliance with this Rule and with other Federal lead rules.

I. DEFINITIONS

The following terms shall be defined as specified below. **Read these definitions carefully to properly comply with the terms of this Subpoena.** Unless otherwise defined below, the terms used in this Subpoena have the meaning given in the regulations at 40 C.F.R. Part 745, Subparts D, E, and F.

“Child-occupied facility” means a building, or portion of a building, constructed prior to 1978, visited regularly by the same child, under six years of age, on at least two different days within any week (Sunday through Saturday period), provided that each day’s visit lasts at least three hours, the combined weekly visits last at least six hours, and the combined annual visits last at least sixty hours. Child-occupied facilities may include, but are not limited to, day care centers, preschools, and kindergarten classrooms. Child-occupied facilities may be located in target housing or in public or commercial buildings. With respect to common areas in public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only those common areas that are routinely used by children under age six, such as restrooms and cafeterias. Common areas that children under age six only pass through, such as hallways, stairways and garages, are not included. In addition, with respect to exteriors of public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only the exterior sides of the building that are immediately adjacent to the child-occupied facility or the common areas routinely used by children under age six.

“Compensation” includes payment, monetary or trade, for work performed, such as that paid to contractors and subcontractors; wages, such as that paid to employees of contractors, building owners, property management companies, child-occupied facility operators, state and local government agencies, and non-profits; and rent for target housing or public or commercial building space.

“Document” means the original or an identical and readable copy thereof, and all non-identical copies (whether different from the original by reason of notation made on such copies or otherwise), of any writings or records of any type or description, however created, produced or reproduced.

“Elevated blood lead levels” means concentrations greater than 5 ug/dL in children under 17.

“Emergency renovation” means renovation activities that were not planned but result from a sudden, unexpected event, such as non-routine failures of equipment, that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment and/or property with significant damage.

“Firm” means a company, partnership, corporation, sole proprietorship or individual doing business, association, or other business entity; a Federal, State, Tribal, or local government agency; or a nonprofit organization.

“Lead-based paint” means paint or other surface coating which contains lead equal to or in excess of 1.0 milligram per square centimeter (mg/cm^2) or 0.5 percent by weight.

“Minor repair and maintenance activities” are activities, including minor heating, ventilation or air conditioning work, electrical work, and plumbing, that disrupt 6 square feet or less of painted surface per room for interior activities or twenty square feet or less of painted surface area for exterior activities, where none of the prohibited or restricted work practices (see definition below) are used and where the work does not involve window replacement or demolition of painted surfaces. When removing painted components, or portions of painted components, the entire surface area removed is the amount of painted surface disturbed. Jobs, other than emergency renovations, performed in the same room within the same 30 days must be considered the same job for the purpose of determining whether the job is a minor repair and maintenance activity.

“Occupant” means the lessee and any other person who resides in the target housing or child-occupied facility.

“Prohibited and Restricted Practices” means:

- Open-flame burning or torching of lead-based paint;
- The use of machines that remove lead-based paint through high speed operation such as sanding, grinding, power planing, needle gun, abrasive blasting, or sandblasting unless such machines have shrouds or containment systems and are equipped with a HEPA vacuum attachment to collect dust and debris at the point of generation. Machines must be operated so that no visible dust or release of air occurs outside the shroud or containment system; and
- Operating a heat gun on lead-based paint at temperatures equal to or above 1100 degrees Fahrenheit.

“Renovation” means the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement as defined by 40 C.F.R. § 745.223.¹ The term renovation includes (but is not limited to):

- Removal, modification or repair of painted surfaces or painted components (e.g., modification of painted doors, surface restoration, window repair, and surface preparation activity, such as sanding, scraping, or other such activities that may generate paint dust);
- Removal of building components (e.g., walls, ceilings, plumbing, windows);
- Weatherization projects (e.g., cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, planing thresholds to install weather stripping); and
- Interim controls that disturb painted surfaces.

A renovation performed for the purpose of converting a building, or part of a building, into target housing or a child-occupied facility is a renovation. The term renovation does not include “minor repair and maintenance activities.” (See definition above.)

“Renovation Activities” means the projects identified in Attachment A.

“Renovator” means an individual who either performs or directs workers who perform renovations. A certified renovator is a renovator who has successfully completed a renovator course accredited by EPA or an EPA-authorized State or Tribal program.

“Target housing” means any residential housing constructed prior to 1978 except housing for the elderly or persons with disabilities (unless any one or more children age 6 years or under resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0-bedroom dwelling. For the purpose of this Subpoena, “housing constructed before 1978” means housing for which a construction permit was obtained (or if no permit was obtained, housing in which construction was started) before January 1, 1978.

“Work area” means the area that the renovator establishes to contain the dust and debris generated by a renovation.

“Work order” means any oral agreement, contract, written document or electronic communication used by property management, building management or owners to request any work to be completed by employees or contractors, including maintenance services, emergency repairs, quick work projects and standing work for compensation by employer.

¹ 40 C.F.R. § 745.223 defines abatement as “any measure or set of measures designed to permanently eliminate lead-based paint hazards.”

"You" and "Your" means (a) Lowes Companies, Inc.; (b) Lowe's Home Centers, Inc.; (c) any entity or venture in which Lowe's Companies, Inc. or Lowe's Home Centers, Inc. maintains an interest; and (d) agents or representatives of Lowes Companies, Inc. or Lowe's Home Centers, Inc., including subcontractors working on behalf of Lowe's Companies, Inc. or Lowe's Home Centers, Inc. to perform the Renovation Activities identified in Attachment A.

II. INFORMATION TO BE SUBMITTED TO EPA

Provide the information and documents requested in the enclosed Attachment B **within the following time frames:**

- (a) For information relevant to Renovation Activities contracted out of the Lowe's of Southington, Connecticut store: within **twenty-five days** of Your receipt of this Subpoena;
- (b) For information relevant to Renovation Activities contracted out of the Lowe's of Portland, Maine store: within **thirty-five days** of your Receipt of this Subpoena;
- (c) For information relevant to Renovation Activities contracted out of the Lowe's of S. Burlington, Vermont store: within **forty-five days** of Your receipt of this Subpoena.

Your response must be accompanied by a signed copy of the enclosed affidavit for each Lowe's store mentioned above. Where information necessary for a complete response is neither in Your possession nor reasonably available to You, indicate this fact in Your response, and (1) explain the reasonable efforts You made to obtain such information, and (2) if possible, identify any source that either possesses or is likely to possess such information. All responsive information should be sent to:

Alexander Aman
U.S. Environmental Protection Agency – New England
Office of Environmental Stewardship
5 Post Office Square, Suite 100 (OES 05-04)
Boston, MA 02109-3912

Please redact any customer credit card information and social security numbers before submitting your response.

III. CLAIMS OF CONFIDENTIAL BUSINESS INFORMATION

Pursuant to the regulations set forth at 40 C.F.R. Part 2, Subpart B, You may choose to assert that part or all of the submitted information is confidential business information ("CBI"). Unless such confidentiality claims are asserted at the time the required information is submitted, EPA makes this information available to the public upon request without further notice to You. Information that is CBI may be made available to the public only to the extent set forth in the above-cited regulations. Any such claim for confidentiality must conform to the requirements set forth at 40 C.F.R. § 2.203(b).

While You may claim that information is CBI, such claims are unlikely to be upheld if they are challenged unless the information meets all four of the following criteria:

1. Your business has taken reasonable measures to protect the confidentiality of the information and intends to continue to take such measures;
2. The information is not, and has not been, reasonably obtainable without Your business' consent by other persons (other than government bodies) by use of legitimate means (other than discovery based on showing of special need in a judicial or quasi-judicial proceeding);
3. No statute specifically requires disclosure of information, and the information is not available elsewhere; and
4. Disclosure of the information is likely to cause substantial harm to Your business' competitive position.

Please note that the burden of proof is on You to demonstrate that the information satisfies all four criteria. Also, You should not claim as CBI information that may be *private but not CBI* (such as medical information and social security numbers). If any portion of Your response contains CBI which You claim as confidential, it is critical that You submit two copies of any such "business information" in accordance with the following procedures:

1. The first copy of any page containing such CBI must be complete and contain all information. Additionally, each such page must be marked conspicuously to indicate that it is claimed as confidential. Furthermore, the compilation of information subject to Your CBI claim should be mailed to EPA-New England in accordance with the following procedures:

- a. All such documents must be placed in an envelope addressed to:

Rose Toscano
U.S. Environmental Protection Agency – New England
Office of Environmental Stewardship
5 Post Office Square, Suite 100 (OES 05-01)
Boston, MA 02109-3912

This envelope should be marked "Confidential – To be Opened by Addressee Only"; and

- b. The envelope containing the information claimed as CBI should then be placed in a second "outer" envelope, also addressed to Rose Toscano at

the address listed above. The outer envelope should not be marked with any indication that it contains confidential information.

2. The second copy of any document that is subject to a CBI claim must only contain information which is not claimed as confidential. This second copy of any document from which alleged CBI has been made unreadable, or otherwise removed, must be mailed directly to Alexander Aman at the address indicated above in Section II.

If You have any questions, please contact Alexander Aman at (617) 918-1722.

Issued in Boston, Massachusetts, the 8th day of November, 2012.

Susan Studien
Susan Studien, Director
Office of Environmental Stewardship
U.S. Environmental Protection Agency – New England

Enclosures

1. Attachment A - Renovation Activities
2. Attachment B – Subpoena Questions
3. Affidavit (to be completed and returned with Subpoena responses to Attachment B)
4. Compliance Assistance Packet

cc:

Jeff Dehner, Esq., Hunton & Williams LLP

Jeffrey R. Vining, Esq., Senior Counsel, Lowe's Companies, Inc.

ATTACHMENT A - RENOVATION ACTIVITIES
Lead RRP Rule Subpoena

LCT_NBR	DBA_NME	CAL_DT	IVO NBR	Item number	ITM_DES_TXT	SAL_PNL_NBR	IS_PRJ_NBR	VBU_NME
1913	LOWE'S OF S. BURLINGTON, VT	29-Jun-10	93837	242563	LABOR DOOR LEAD SAFE PRCT	1418864	300967309	
1913	LOWE'S OF S. BURLINGTON, VT	04-Sep-10	97424	242908	LABOR WINDOW LEAD SAFE PRCT	1302281	302221135	
1913	LOWE'S OF S. BURLINGTON, VT	08-Oct-10	99165	242563	LABOR DOOR LEAD SAFE PRCT	1484875	306552357	
1913	LOWE'S OF S. BURLINGTON, VT	14-Apr-11	77432	242918	LABOR VANITY LEAD SAFE PRCT	1517881	323211894	OAKES PLUMBING & HEATING
1913	LOWE'S OF S. BURLINGTON, VT	29-Feb-12	95815	242908	LABOR WINDOW LEAD SAFE PRCT	1484875	344505897	
1913	LOWE'S OF S. BURLINGTON, VT	07-May-12	99814	242908	LABOR WINDOW LEAD SAFE PRCT	1484875	352256858	WESTERN ATTITUDES CONSTRUCTION
1913	LOWE'S OF S. BURLINGTON, VT	08-May-12	99891	242908	LABOR WINDOW LEAD SAFE PRCT	1484875	352884386	WESTERN ATTITUDES CONSTRUCTION
1913	LOWE'S OF S. BURLINGTON, VT	10-May-12	70071	242563	LABOR DOOR LEAD SAFE PRCT	1223950	353068864	LOUISIDIS, JOHN D.
1913	LOWE'S OF S. BURLINGTON, VT	18-May-12	70616	242908	LABOR WINDOW LEAD SAFE PRCT	1484875	351196312	LOUISIDIS, JOHN D.
1913	LOWE'S OF S. BURLINGTON, VT	23-May-12	71051	242908	LABOR WINDOW LEAD SAFE PRCT	1484875	351554520	WESTERN ATTITUDES CONSTRUCTION
1946	LOWE'S OF PORTLAND, ME	07-Jun-10	83219	242942	LABOR ROOFING LEAD SAFE PRCT	1403064	296849789	
1946	LOWE'S OF PORTLAND, ME	19-Jun-10	83797	239233	LABOR CAB LEAD SAFE PRCT	1398437	298050653	
1946	LOWE'S OF PORTLAND, ME	02-Jul-10	84499	331188	LABOR VINYL LEAD SAFE PRCT	1398437	300906408	
1946	LOWE'S OF PORTLAND, ME	09-Jul-10	84879	247137	LABOR DECK LEAD SAFE PRCT	1403064		ULERY'S HOME IMPROVEMENT
1946	LOWE'S OF PORTLAND, ME	09-Jul-10	84881	247137	LABOR DECK LEAD SAFE PRCT	1403064	298954041	ULERY'S HOME IMPROVEMENT
1946	LOWE'S OF PORTLAND, ME	09-Oct-10	88812	242908	LABOR WINDOW LEAD SAFE PRCT	1403064	307501445	
1946	LOWE'S OF PORTLAND, ME	29-Oct-10	89772	242908	LABOR WINDOW LEAD SAFE PRCT	1403064	309077992	
1946	LOWE'S OF PORTLAND, ME	27-Nov-10	91099	242563	LABOR DOOR LEAD SAFE PRCT	958196	312997776	
1946	LOWE'S OF PORTLAND, ME	30-Jul-11	71420	242918	LABOR VANITY LEAD SAFE PRCT	1398437	331585990	
1946	LOWE'S OF PORTLAND, ME	27-Jan-12	79393	331189	LABOR HDW/LAM LEAD SAFE PRCT	1398437	345361670	
2910	LOWE'S OF SOUTHINGTON, CT	26-Jun-10	94673	242908	LABOR WINDOW LEAD SAFE PRCT	692200	301094309	
2910	LOWE'S OF SOUTHINGTON, CT	11-Sep-10	98374	242908	LABOR WINDOW LEAD SAFE PRCT	692200	303670678	
2910	LOWE'S OF SOUTHINGTON, CT	16-Jun-11	82285	242908	LABOR WINDOW LEAD SAFE PRCT	692200		
2910	LOWE'S OF SOUTHINGTON, CT	16-Jun-11	82290	242908	LABOR WINDOW LEAD SAFE PRCT	692200	328717618	
2910	LOWE'S OF SOUTHINGTON, CT	25-Feb-12	95557	242563	LABOR DOOR LEAD SAFE PRCT	168232	347354244	NORTHEASTERN REPLACE WNDW&DOOR
2910	LOWE'S OF SOUTHINGTON, CT	08-Apr-12	97906	242563	LABOR DOOR LEAD SAFE PRCT	168232	350824341	MILLER, D.H., INC.
2910	LOWE'S OF SOUTHINGTON, CT	12-Apr-12	98096	242908	LABOR WINDOW LEAD SAFE PRCT	692200	348105801	NORTHEASTERN REPLACE WNDW&DOOR
2910	LOWE'S OF SOUTHINGTON, CT	26-Apr-12	98985	242563	LABOR DOOR LEAD SAFE PRCT	662642	351797563	NORTHEASTERN REPLACE WNDW&DOOR

ATTACHMENT B - QUESTIONS
Lead RRP Rule Subpoena

In answering the questions below, please place all documents relating to a Renovation Activity in a packet marked with the last name of the customer and the Lowe's Project Number(s). If the information sought by a question below is available on the face of a document in that packet, You may just refer to that document rather than rewrite all the information, following the example provided in the attached chart. For example, there is no need to restate the address and contact information for the customer if such information is on the face of the sales contract or invoice.

1. For each Renovation Activity identified in Attachment A, answer the following:
 - a. Did You perform or offer to perform the Renovation Activity for compensation, after April 22, 2010?
 - b. For each Renovation Activity for which You answered "yes" in question 1.a. above, indicate if the Property was target housing and/or a child-occupied facility or neither at the time of the Renovation Activity and/or if the Property or a part of the Property was converted into target housing or a child-occupied facility as a result of the Renovation Activity.
 - c. For each Renovation Activity You indicated was target housing and/or a child-occupied facility in question 1.b. above, answer the following questions and provide the following information.
 - i. Provide the address of the Property where the Renovation Activity took place.
 - ii. Provide the age of the property.
 - iii. Provide the name and contact information of the owners and/or occupants of the property at the time of the Renovation Activity.
 - iv. Provide a detailed list of all children along with their ages, if such information is reasonably available. Provide a one or two sentence description of the Renovation Activity. For window replacement projects, indicate the number of windows replaced. Also, specify if a Renovation Activity listed in Attachment A is part of another listed Renovation Activity.
 - v. Provide copies of all building or work permits required for the Renovation Activity.

- vi. Provide any information You may have concerning children with elevated blood lead levels present at the property at the time of the Renovation Activity.
 - vii. Provide the dates the Renovation Activity was performed.
 - viii. If known, indicate if the Renovation Activity was performed with some source of HUD funding.
 - ix. Provide any lead risk assessments, inspection reports, and/or Letters of Compliance or Conformance You have related to the Property.
 - x. If known, indicate whether the property where the Renovation Activity occurred was the subject of any complaints pertaining to lead problems or the presence of lead-based paint. Describe the complaint(s).
 - xi. Indicate if any of the Renovation Activities were not subject to the Lead RRP Rule pursuant to either (a) the exemptions listed in 40 C.F.R. 745.82; or (b) the definitions of “renovation” and “minor repair and maintenance activities” in 40 C.F.R. § 745.83. If You determine that a Renovation Activity was not subject to the Lead RRP Rule as a result of these exemptions or definitions, indicate why, and provide documentation supporting your conclusion.
 - xii. Provide a list and copies of all Your contracts, work orders, final invoices, and evidence of payment for the Renovation Activity.
 - xiii. Provide a list of all individuals and firms who performed or managed the Renovation Activity. Include contact information including name, business relationship with You, contractor license number (if known), place of employment, address and phone number, and all lead certification information including copies of certifications.
 - xiv. Include a copy of the firm certification for Lowe’s Companies, Inc. and Lowe’s Home Centers, Inc. if they had firm certification(s) prior to the date of the Renovation Activity.
2. For each Renovation Activity You identified in Attachment A that You identified as target housing and/or a child-occupied facility in Question 1.b above, provide all records retained by You (including subcontractors) pursuant to the recordkeeping and reporting requirements in 40 C.F.R. § 745.86, including:
- a. Records retained pursuant to the pre-renovation notification requirements found in 40 C.F.R. § 745.84, including:

- i. For Renovations undertaken in a specific residence:
 1. Written acknowledgment from the property owner that the owner received a copy of the pre-renovation education pamphlet, or a certificate of mailing indicating that a copy of the pamphlet was sent to the property owner at least seven (7) days prior to the Renovation; AND
 2. If the owner did not occupy the residence where the Renovation occurred, written acknowledgment from an adult occupant that the occupant received the pamphlet; or written certification that a pamphlet was delivered to the residence and that the firm performing the Renovation was unsuccessful in obtaining a written acknowledgment from an adult occupant [See 40 C.F.R. § 745.84(a)(2)(i)]; or a certificate of mailing indicating that a copy of the pamphlet was sent to the occupant at least seven (7) days prior to the Renovation.
- ii. For Renovations undertaken in common areas of multi-unit housing:
 1. Written acknowledgment from the property owner that the owner received the pamphlet, or a certificate of mailing indicating that a copy of the pamphlet was sent to the property owner at least seven (7) days prior to the Renovation; AND
 2. A signed and dated statement describing the steps performed to notify all occupants of the intended the Renovation and the efforts undertaken to provide the occupants with the pamphlet.
- iii. With respect to Renovations on child-occupied facilities, all records retained pursuant to the information distribution requirements in 40 C.F.R. § 745.84, including:
 1. Written acknowledgment from the building owner that the owner received the pamphlet, or a certificate of mailing indicating that a copy of the pamphlet was sent to the property owner at least seven (7) days prior to the renovation; AND
 2. If the child-occupied facility was not the owner of the building, written acknowledgment from an adult representative of the child-occupied facility that he or she received the pamphlet; or written certification that a pamphlet was delivered to the facility and that the firm performing the renovation was unsuccessful in obtaining written acknowledgment from an adult representative (See 40 C.F.R. § 745.84(c)(ii)(A)); or a

certificate of mailing indicating that the pamphlet was mailed to the adult representative at least seven (7) days prior to the renovation; AND

3. A signed and dated statement describing the steps performed to notify the parents and guardians of children using the child-occupied facility of the intended the Renovation and the efforts undertaken to provide the parents and guardians with the pamphlet.
 - b. Documentation of compliance with the work practice requirements of 40 C.F.R. § 745.85, including documentation that a certified renovator: was assigned to the project, provided on-the-job training for workers used on the project, performed or directed workers who performed all of the tasks described in § 745.85(a), and performed the post-renovation cleaning verification described in § 745.85(b). This documentation must include all of the elements described in § 745.86(b)(6).
 - c. If the Firm was not able to comply with all of the requirements of the Lead RRP Rule because the Renovation was an emergency renovation, documentation of the nature of the emergency and the provisions of the rule that were not followed.
 - d. If a test kit was used, documentation indicating that the person who contracted for the Renovation was provided with identifying information as to the manufacturer and model of the test kit used, a description of the components that were tested including their locations, and the test kit results.
 - e. If dust clearance sampling was performed in lieu of cleaning verification, as permitted by § 745.85(c), documentation indicating that the person who contracted for the Renovation was provided with a copy of the dust sampling report.
 - f. Evidence of compliance with 40 C.F.R. § 745.86(c)(1), which requires the Firm to deliver documentation of compliance with the Lead RRP Rule to the owner and occupants of the property where the Renovation occurred.² If no evidence of such compliance exists, indicate whether there was compliance with this requirement.
3. Policies Regarding Compliance with Lead RRP Rule:
- a. Describe how You ensure that Your employees and contractors, including subcontractors, comply with the Lead RRP Rule. If Your compliance assurance practices have changed since April 2010, please describe how and when the practices changed.

² This requirement would not apply to Renovation Activities completed before July 6, 2010.

- b. Provide copies of all policies or procedures that You have created or provided to Your contractors and subcontractors regarding compliance with the Lead RRP Rule, including the date of such policies or procedures, and proof that they were conveyed.

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY REGION 1 / NEW ENGLAND
TSCA Subpoena No.: TSCA-SP-2013-002**

IN THE MATTER OF:

AFFIDAVIT responding to the subpoena issued pursuant to 15 U.S.C. § 2610(c)

I, the undersigned affiant, first being duly sworn, upon an oath, depose and say:

1. Attached hereto are _____ pages of responsive documents and/or records. The attached pages are true and correct copies of documents and/or records that I presently have in my custody and/or control or that I obtained from a subcontractor.
2. I am one of the custodians of the documents and records at issue and am producing true and correct copies of such documents and records in response to a subpoena issued by the U.S. Environmental Protection Agency pursuant to 15 U.S.C. § 2610(c).
3. The documents and records at issue were and/or are received and/or kept in the usual course of the regularly conducted business activities of the persons and entities subject to the above-referenced subpoena. I, and others, rely on such documents and records for the purpose of conducting everyday affairs. Such documents and records are usually prepared, or received, at or near the time of the events to which they related, and are based upon the knowledge of the person transmitting information for the purpose of preparing such documents and records.
4. I have made a diligent search and inquiry for all documents and records that are reasonably described in the subpoena to which this affidavit responds. To my knowledge, there are no documents or records responsive to the subpoena that have not been copied and submitted to the U.S. Environmental Protection Agency.
5. All responses to the inquiries contained in the aforementioned subpoena are true, complete, and accurate.

6. I acknowledge that this affidavit is submitted to the United States in connection with a matter within the jurisdiction of the U.S. Environmental Protection Agency and that any material false statement of fact herein may be a federal crime under Title 18, Section 1001 of the United States Code.

Affiant:

Date: _____

Signature: _____

Type Name: _____

Office or Title: _____

Company: _____

Note: This is a sample answer chart compiled using job files obtained after an inspection of Your Bedford, New Hampshire store. The answers to some of the questions are incomplete due to a lack of information in the files. As explained in Section II of the Subpoena, EPA expects a complete response to each question when the information is in Your possession or reasonably available to you. You are not required to conduct research to obtain information that You (including subcontractors) may have never obtained in the course of contracting for or conducting the Renovation Activities. Questions #1a through 1.c.vii are on page one of this chart; Questions #1c.viii through 1.c.xv are on page 2; and the remaining questions are on page 3.

Renovation Activity (Store, Project Number, Invoice Number, and Last Name of Customer)	Question # 1a (For compensation?)	Questions # 1b and 1c.i (Target Housing and age of property?)	Question #1c.i (Address)	Question #1c.iii (name and contact info. for owners/ occupants)	Question #1c.iv (children and ages)	Question #1c.v (description of renovation activity)	Question #1c.vi (building/ work permits)	Question #1c.vii (children with EBLs?)
<ul style="list-style-type: none"> o Bedford, NH o 309022701 o 85453 o Violette 	Yes – see enclosed Project Estimate and invoice	Yes – (1928) [In this case age of property was not in files, so 1928 is a made-up date.]	See enclosed installer worksheet	See installer worksheet	Info. not available	See installer worksheet and Project Estimate for description of activity and # of windows. Charged for lead safe practices. Job is not related to other jobs listed on Attachment A.	N/A	unknown
<ul style="list-style-type: none"> o Bedford, NH o 97087113? o 83364 o Cormier 	Yes –see enclosed Installed Sales Contract	Yes – age info not in file	See enclosed installer worksheet	See installer worksheet	Info. not available	Window installation. See installer worksheet and Installed Sales Contract. Charged for lead safe practices. Job is related to other jobs?	There's a reference to a permit charge on one cost sheet but no copy of permit	unknown
<ul style="list-style-type: none"> o Bedford, NH o 307608210 o 84589 o Currier 	?—See enclosed estimate, but file does not contain Installed Sales Contract for the cabinet installation (although there is one for countertop/sink installation)	?	See enclosed test kit documentat- ion form	See test kit documentat- ion form	Info. not available	Kitchen cabinet installation -- lead test on cabinets Job does not seem to be related to other jobs on Attachment A	N/A	unknown

Renovation Activity (Store, Project Number, and Invoice Number, and Last Name of Customer)	Question #1c.viii (dates of renovation activity)	Question #1.c.ix (HUD funding?)	Question #1.c.x (Lead information?)	Question #1.c.xi (Job due to complaints about lead?)	Question #1.c.xii (Job subject to exemption or a minor maintenance or repair activity?)	Question #1.c.xiii (Contracts, work orders, and invoices)	Question #1.c.xiv (Contractor Info.)	Question #1.c.xv (Lowe's certification information)
<ul style="list-style-type: none"> o Bedford, NH o 309022701 o 85453 o Violette 	11/3/10?	unknown	Enclosed Estimate includes cost for lead safe procedures but copy of lead test info. not in file.	unknown	No – window replacement	Enclosed	<i>Firm:</i> Lowe's subcontractor Iverson Properties LLC, 751 Hanover Street, Manchester, NH 03104 (see copy of certification) <i>Individual Renovator:</i> David Iverson (see EPA certification)	Did Lowe's have certification as of the date of this job?
<ul style="list-style-type: none"> o Bedford, NH o 97087113? o 83364 o Cormier 	10/2/10 contract date—need info. re. dates of activity	unknown	Enclosed Estimate includes cost for lead safe procedures but copy of lead test info. not in file.	unknown	No – window replacement	Contact enclosed. Need final invoice.	Same as above.	
<ul style="list-style-type: none"> o Bedford, NH o 307608210 o 84589 o Currier 	?	unknown	See enclosed test kit documentation form indicating no lead	unknown	?	No contract or invoice enclosed for cabinet work or lead test work.	Individual Renovator and Firm: William Malburne (see copy of EPA certification)	

Renovation Activity (Store, Project Number, Invoice Number, and Last Name of Customer)	Question #2(a) (Pre-renovation notification?)	Question #2(b) (Documentation of compliance with work practices)	Question #2(c) (Emergency Renovation?)	Question #2(e) (If dust clearance sampling used, was report sent?)	Question #2(f) (Compliance with requirement to send information re. compliance with RRP Rule to owners/occupants after the Renovation?)	Question #3(a) (Description of Compliance Assurance practices)	Question #3(b) (Copies of compliance procedures)	
<input type="radio"/> Bedford, NH <input type="radio"/> 309022701 <input type="radio"/> 85453 <input type="radio"/> Violette	Yes – see signed certification 2 nd sheet of enclosed Installed Sales Contract. (1 st page of contract is missing). Yes – see contract.	None	No	No documentation showing what method of cleaning verification was used.	Not in file.			
<input type="radio"/> Bedford, NH <input type="radio"/> 97087113? <input type="radio"/> 83364 <input type="radio"/> Cormier	Yes – see contract.	None	No	Same as above	Not in file.			
<input type="radio"/> Bedford, NH <input type="radio"/> 307608210 <input type="radio"/> 84589 <input type="radio"/> Currier	11/7/10 countertop contract certifies that lead pamphlet was provided	None but N/A	No	N/A	N/A			